

REMARKS

The present Amendment amends claims 1, 3 and 8-11, leaves claims 2 and 4-6 unchanged and cancels claim 7. Therefore, the present application has pending claims 1-6 and 8-11.

The drawings stand objected to due to informalities noted by the Examiner in paragraph 2 of the Office Action. Particularly, the Examiner objects to the drawings as allegedly failing to comply with 37 CFR §1.84(p)(5). Various amendments were made throughout the specification so as to bring the description in the specification into conformity with the elements and reference numerals used in the drawings. Therefore, this objection is overcome and should be withdrawn.

The Abstract of the disclosure stands objected to as exceeding the prescribed length of 150 words. Amendments were made to the Abstract to bring it into conformity with U.S. practice. Therefore, this objection is overcome and should be withdrawn.

Claims 1-6, 8 and 9 stand rejected under 35 USC §101 as being directed toward non-statutory subject matter. Particularly, the Examiner alleges that the claims are merely abstract ideals. Applicants do not agree. However, in order to expedite prosecution of the present application claims 1-6, 8 and 9 were amended so as to include information describing the present invention as it relates to the resources. Specifically, amendments were made to claims 1-6, 8 and 9 to recite that the resources include a transmission and exchange network and a data processing unit similar to that recited in claim 7. It is noted that claim 7 was not rejected under 35 USC §101.

Therefore, based on the amendments made to claims 1-6, 8 and 9 Applicants submit that the features therein are not directed to an abstract ideal as alleged by the Examiner. Accordingly, reconsideration and withdrawal of claims 1-6, 8 and 9 under 35 USC §101 is respectfully requested.

Claims 1-6, 8 and 9 stand rejected under 35 USC §112, second paragraph as allegedly being incomplete for omitting essential structural cooperative relationships between the elements. Applicants do not agree. However, as noted above, amendments were made to claims 1-6, 8 and 9 so as to more clearly recite that the resources includes a transmission and exchange network and a data processing unit similar to that recited in claim 7. It is noted that claim 7 was not rejected under 35 USC §112, second paragraph.

Therefore, based on the above, Applicants submit that claims 1-6, 8 and 9 as now constituted recites the essential structural cooperative relationships of the elements. Accordingly, reconsideration and withdrawal of the 35 USC §112, second paragraph rejection of claims 1-6, 8 and 9 is respectfully requested.

Claims 1, 6-8 and 10 stand rejected under 35 USC §102(e) as being anticipated by Campbell (U.S. Patent No. 5,918,209); claim 2 stands rejected under 35 USC §103(a) as being unpatentable over Campbell and an alleged Official Notice; and claims 3-5, 9 and 11 stand rejected under 35 USC §103(a) as being unpatentable over Campbell in view of Lynch (U.S. Patent No. 6,119,094). As indicated above, claim 7 was canceled. Therefore, these rejections with respect to claim 7 is rendered moot. These rejections with respect to the remaining claims 1-6 and 8-11 are traversed for the following reasons. Applicants submit that the features

of the present invention as now recited in claims 1-6 and 8-11 are not taught or suggested by Campbell, the alleged Official Notice or Lynch whether taken individually or in combination with each other as suggested by the Examiner. Accordingly, reconsideration and withdrawal of these rejections is respectfully requested.

As an initial matter, Applicants hereby traverse the alleged Official Notice by the Examiner, wherein the Examiner alleges that:

“it is common practice in the perishable goods industry to create a directly proportional relationship between demand (i.e., load level) and marginal value (i.e., important degree) for the purposes of estimating materialization and revenue”.

Further, Applicants hereby request in accordance with MPEP 2144.04(c) that the Examiner support the alleged Official Notice with evidence, namely a prior art reference that teaches that such is known. However, even if such a reference could be produced, Applicants submit that such reference combined with the other references of record still fails to teach or suggest the features of the present invention as now recited in the claims.

The features of the present invention as now recited in the claims are not taught or suggested by any of the references of record particularly Campbell, the alleged Official Notice and Lynch whether taken individually or in combination with each other as suggested by the Examiner.

Campbell merely teaches an airline reservation system 14 which accepts or denies a booking request based on marginal values received from an airline revenue management system 15 as described in col. 7, lines 16-20 thereof. According to

Campbell, the marginal values are calculated in a marginal value system (MVS) 16 of the airline revenue management system 15. The MVS 16 of Campbell periodically receives a demand forecast, passenger value and the supply of seats remaining to be booked, for selected future flight leg departures. Then the MVS 16 based on the information received from the airline revenue management system 15, calculates marginal values optimized for the selected future flight leg departures, and returns the values thus calculated to the airline revenue management system 15 as described in col. 7, lines 43-64 of Campbell. According to Campbell, the airline reservations system 16 compares a sum of the marginal values for the flight leg departures included in a flight path departure and a net revenue of this flight path departure and then accepts the booking request when the net revenue surpasses the sum of marginal values, and denies the booking request otherwise as described in col. 8, lines 22-39 thereof.

The present invention differs from that taught by Campbell being that Campbell is a system for accepting a reservation with the aim of maximizing the fare income of an airline company. It appears that the Examiner considers that the "marginal value" taught by Campbell corresponds to the "degree of importance" recited in the claims of the present application. However, the marginal value taught by Campbell and the degree of importance recited in the claims of the present application have an entirely different meanings and are used in manners entirely different from each other.

The "marginal value" as taught by Campbell is merely a threshold value used to judge if a reservation is acceptable or not as oppose to whether a degree of

importance of a reservation request is above or below a predetermined degree of importance as in the present invention. There is simply no teaching or suggestion in Campbell of any element that provides a measure of the degree of importance of a reservation request as recited in the claims of the present application. According to the present invention, a decision whether a reservation request is accepted or not is made by performing two comparison stages. The first stage is a comparison between the load level of the resource and a predetermined load level. The second stage is a comparison between a degree of importance attributed to the reservation request and a predetermined degree of importance. Such features are clearly not taught or suggested by Campbell. Campbell only performs a comparison between the net revenue and the marginal values.

Further, Campbell judges whether a reservation is acceptable or not based upon a single standard. Thus, according to Campbell if, for example, reservations from two customers conflict, it is not possible to satisfy both customers. On the other hand, the present invention is designed so as to optimize the usability of resources of a transmission and exchange network and to improve user satisfaction in using the network by setting predetermined levels of importance which trigger different events. Thus, according to the present invention the acceptability of a reservation and an appropriate alternative reservation proposal is decided in accordance with the degree of importance of the reservation request. Therefore, according to the present invention, even when reservations from two customers conflict satisfaction of both customers can be achieved by proposing an appropriate alternative in

accordance with the degree of importance of each reservation. Such is clearly not possible in Campbell.

Therefore, Campbell fails to teach or suggest an importance degree determining element adapted to determine in accordance with preset specifications a degree of importance of the service booking request accepted by the first acceptance element as recited in the claims.

Further, Campbell fails to teach or suggest a reservation taking element adapted, when a load level, ... of resources used for supplying object services...is higher than a predetermined level, to deny the acceptance of the service booking request if the degree of importance of the service booking request determined by the importance degree determining element is lower than a predetermined importance degree determined by a predetermined standard and to permit the acceptance of the service booking request if the degree of the importance of the service booking request determined by the importance degree determining is not lower than the predetermined importance degree as recited in the claims.

Therefore, Applicants submit that the features of the present invention as now recited in claims 1, 6-8 and 10 are not taught or suggested by Campbell whether taken individually or in combination with any of the other references of record. Accordingly, reconsideration and withdrawal of the 35 USC §102(e) rejection of claims 1, 6-8 and 10 is respectfully requested.

With respect to the alleged Official Notice, as indicated above, Applicants traverse the Notice and request that the Examiner supply a reference in which such teaching can be found. However, even if such a reference could be found,

Applicants submit that such teaching would still not render obvious the features of the present invention when combined with Campbell.

The alleged Official Notice by the Examiner merely states that it is common practice in the perishable goods industry to create a directly proportional relationship between demand and marginal value for the purposes of estimating materialization and revenue. However, it appears that the Examiner has confused the issues. "Marginal value" does not correspond to "degree of importance" as noted above with respect to Campbell. The degree of importance degree is a measure of the importance of a reservation request which may cause a multitude of responses depending on whether the degree of importance exceeds a predetermined degree of importance level. Such features are clearly not taught or suggested by Campbell and certainly would not be taught or suggested by the reference to be supplied by the Examiner.

Thus, even if Campbell is combined with the alleged Official Notice as suggested by the Examiner, the combination would still be deficient of features of the present invention as now recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) of claim 2 as being unpatentable over Campbell and the alleged Official Notice is respectfully requested.

In the Office Action, the Examiner recognized that Campbell contains various deficiencies relative to the features of the present invention as recited in the claims, particularly as it relates the article of manufacture claims. The Examiner attempts to supply these admitted deficiencies of Campbell by combining Campbell with Lynch. However, Applicants submit that even if Campbell and Lynch are combined as

alleged by the Examiner, the combination would still be deficient of the features of the present invention as now recited in the claims.

Namely, Lynch does not teach or suggest the above described features of the present invention wherein an importance degree determining element and a reservation taking element are provided. There is no teaching or suggestion at any point in Lynch regarding the placing of a measure of the degree of importance of a reservation request when submitted and comparing this degree of importance with a predetermined degree of importance level as in the present invention.

Thus, the features of the present invention as now recited in claims 3-5, 9 and 11 are not taught or suggested by the combination of Campbell and Lynch. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejection of claims 3-5, 9 and 11 as being unpatentable over Campbell and Lynch is respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 1-11.

In view of the foregoing amendments and remarks, Applicants submit that claims 1-6 and 8-11 are in condition for allowance. Accordingly, early allowance of claims 1-6 and 8-11 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (566.38876X00).

Respectfully submitted,

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